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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2012-297*

12 **ROXANNE TOUPS, AKA ROXANNE**  
13 **SNELL**

**ACCUSATION**

14 1147 Ave B  
Westwego, LA 70094

15 Registered Nurse License No. 716400

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about November 30, 2007, the Board of Registered Nursing issued Registered  
24 Nurse License Number 716400 to Roxanne Touns, aka Roxanne Snell ("Respondent"). The  
25 Registered Nurse License expired on July 31, 2009, and has not been renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 118, subdivision (b) of the Code grants the Board jurisdiction over suspended, expired, forfeited, cancelled, or surrendered licenses:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action."

8. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a

person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

#### **COST RECOVERY**

9. Section 125.3 of the Code provides, in pertinent part, that the Board, Registrar, or Director may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### **FIRST CAUSE FOR DISCIPLINE**

##### **(Disciplinary Action by the Nevada State Board of Nursing)**

10. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of the Code because the Nevada State Board of Nursing ("Nevada Board") revoked, stayed the revocation and placed Respondent's license on probation for five (5) years with terms and conditions. The circumstances of the Nevada Board's disciplinary action are as follows:

11. On or about November 21, 2008, the Nevada Board made findings of fact, reached conclusions of law and issued an Agreement for Probation ("Agreement") in the disciplinary

1 matter entitled, *In the Matter of Roxanne Toups Licensed Professional Nurse Nevada License No.*  
2 *RN 56015*, revoking Respondent's Nevada license, staying the revocation and placing it on  
3 probation. In the Nevada Board's Agreement, the Nevada Board made the following findings:

- 4 a. Respondent admitted that she was employed as a Registered Nurse in a hospital,  
5 via a traveling nurse agency, on or about October and November of 2007.
- 6 b. During that time, Respondent failed to document the administration of controlled  
7 substances that she removed from an automated dispensing system.
- 8 c. Subsequently, on or about November 9, 2007, while on duty, Respondent was  
9 requested to submit to a drug screen by her nursing employer.
- 10 d. The drug screen tested positive for Marijuana metabolite, Hydromorphone,  
11 Hydrocodone, and Oxycodone:
- 12 e. Respondent acknowledged that she did not have prescriptions for some of the  
13 controlled substances she tested positive for on the drug screen.
- 14 f. Respondent acknowledges that she is addicted to alcohol and/or controlled  
15 substances.

16 12. Under section 2761, subdivision (a)(4) of the Code, the Nevada Board's disciplinary  
17 action against Respondent for drug use is ground for the California Board to take disciplinary  
18 action against her California license.

## 19 **SECOND CAUSE FOR DISCIPLINE**

### 20 **(Unprofessional Conduct)**

21 13. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the  
22 Code on the grounds of unprofessional conduct. The conduct is described in more particularity in  
23 paragraphs 10 through 12, inclusive, above, and herein incorporated by reference.

## 24 **THIRD CAUSE FOR DISCIPLINE**

### 25 **(Drug-Related Transgressions)**

26 14. Respondent is subject to disciplinary action under section 2762, subdivision (b) of the  
27 Code in that Respondent tested positive for Marijuana metabolite, Hydromorphone,  
28 Hydrocodone, and Oxycodone, controlled substances, which impaired her ability to conduct with

1 safety her nursing practice. The conduct is described in more particularity in paragraphs 10  
2 through 12, inclusive, above, and herein incorporated by reference.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 716400, issued to  
7 Roxanne Toups, aka Roxanne Snell;

8 2. Ordering Roxanne Toups to pay the Board of Registered Nursing the reasonable costs  
9 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
10 section 125.3;

11 3. Taking such other and further action as deemed necessary and proper.  
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13

14 DATED: November 9, 2011

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN

Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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